

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

Case Number: 22-23115-CIV-MARTINEZ-BECERRA

PANO CALAVRIAS,

Plaintiff,

v.

QUARANTENA, LLC,

Defendant.

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ORDER ON MOTION FOR LEAVE TO AMEND

THIS MATTER is before the Court on Plaintiff’s Motion to Amend Complaint (“Motion to Amend”). (ECF No. 5). Four days after filing the Complaint, Plaintiff moved to amend the Complaint to add additional defendants and corresponding causes of action. (*Id.* ¶ 8). Defendant Quarentena, LLC has not yet been served.

Federal Rule of Civil Procedure 15(a) provides that “[a] party may amend its pleading once as a matter of course within . . . (A) 21 days after serving it” or (B) “21 days after service of a responsive pleading or 21 days after service of a motion under Rule 12(b), (e) or (f), whichever is earlier.” Fed. R. Civ. P. 15(a)(1). “In all other cases, a party may amend its pleading only with the opposing party’s written consent or the court’s leave.” Fed. R. Civ. P. 15(a)(2). “The court should freely give leave when justice so requires.” *Id.* “The thrust of Rule 15(a) is to allow parties to have their claims heard on the merits, and accordingly, district courts should liberally grant leave to amend when ‘the underlying facts or circumstances relied upon by a plaintiff may be a proper subject of relief.’” *In re Engle Cases*, 767 F.3d 1082, 1108 (11th Cir. 2014) (citation omitted).

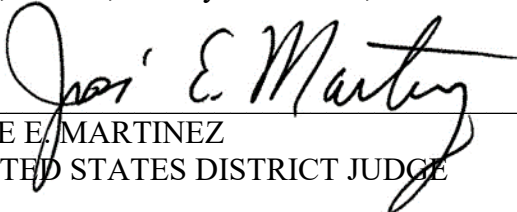
“District courts within the Eleventh Circuit disagree whether a plaintiff may amend the complaint once as a matter of course before serving it upon a defendant.” *Harrison v. Mr James Blackledge & United of Omaha Life Ins. Co.*, No. 19-civ-1811, 2017 U.S. Dist. LEXIS 237378, *3–4 (N.D. Ga. Dec. 20, 2019) (collecting cases). Because Plaintiff is moving to amend, the Court need not decide that issue. *See Thompson v. Carnival Corp.*, 20-cv- 22217, 2021 U.S. Dist. LEXIS 239045, at *7 (S.D. Fla. Sept. 17, 2021) (“Plaintiff forfeited that right [to file an amended pleading as a matter of course] when she filed a motion seeking leave to amend.”).

In moving to amend, Plaintiff did not attach his proposed amended complaint. “A party who moves to amend a pleading shall attach the original of the amendment to the motion in the manner prescribed by Section 3I(1) of the CM/ECF Administrative Procedures.” S.D. L.R. 15.1.

After careful consideration, it is hereby

ORDERED AND ADJUDGED that Plaintiff’s Motion to Amend, (ECF No. 5), is **DENIED WITHOUT PREJUDICE**. Plaintiff may refile his motion to amend, attaching his proposed amended pleading, on or before **October 10, 2022**.

DONE AND ORDERED in Chambers at Miami, Florida, 5th day of October, 2022.



JOSE E. MARTINEZ
UNITED STATES DISTRICT JUDGE

Copies provided to:
All Counsel of Record